

# **LOCAL RULES OF PRACTICE FOR THE DEKALB CIRCUIT AND SUPERIOR COURTS**

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## **Local Rules Relating To Practice in the DeKalb County Courts**

*(Updated effective July 1, 2014)*

### **LR17-TR 00-1 – Scope of Rules**

Except as otherwise provided, these rules govern the procedure and practice in all cases, including criminal, civil, and juvenile, filed or pending in the DeKalb Circuit and Superior Courts.

### **LR17-TR 3.1-2 – Withdrawal of Appearance by Counsel**

- (A) All withdrawals of appearance of counsel shall be in writing and upon Order of the Court.

Permission to withdrawal shall be granted only upon the following circumstances:

- (1) The filing of an appearance by new counsel for said client; or
- (2) Upon written motion to withdraw, which motion shall be served on the client at least ten (10) days prior to the date of the filing of the motion.
- (3) Upon other good cause found by the Court.

- (B) A motion to withdraw shall include the following:

- (1) The name and address of the Court where the case is filed;
- (2) The last known address of the client and the client's telephone number; and
- (3) Any hearing or trial dates and any pleading, discovery or other pre-trial deadline dates.

### **LR17-TR 5-3 – Tender of Orders**

All motions seeking an Order of the Court **or a Notice of Hearing** shall be accompanied by a sufficient number of Orders to be executed by the Court granting said motion. In addition to the Orders, the party filing the motion shall provide the Clerk/Court with stamped, addressed envelopes to all parties of record.

### **LR17-TR 53.5-4 – Continuances**

- (A) All motions for continuance, unless made on the record during the hearing of the cause or otherwise specifically authorized by the Court, shall be in writing.

- (B) Before filing a written continuance, the moving party shall confer with counsel for all other parties and, where practical, with any parties appearing pro se, to determine any objections and to ascertain dates for rescheduling when all parties are available. Such objections and alternative dates (not less than three) shall be reported in or attached to the motion for continuance.

#### **LR17-TR 5-5 - Court Service upon Attorneys**

The attorney boxes located in the offices of the three (3) Courts and in the Clerk's Office are designated as a suitable place for the delivery of pleadings, documents and other papers, by the Clerk of the Court, for any attorney that maintains an office in DeKalb County, Indiana.

#### **LR17-TR 00-6 - Bail Policy and Schedule**

- (A) This rule shall apply to all persons charged with felonies or misdemeanors in the DeKalb Circuit Court or the DeKalb Superior Courts.
- (B) All persons charged with a criminal offense in DeKalb County shall be admitted to bail in the amount, if any, fixed by the Court and endorsed upon the warrants of arrest.
- (C) The following bail schedule determines presumptively the reasonable bail that shall be imposed for arrests made without a warrant:
  - (1) A person charged with murder, a Class A Felony or an F1 Felony shall be held without bond until the person can be brought before the Court for hearing.
  - (2) A person charged with a F2 Felony, other than battery, \$20,000.00.
  - (3) A person charged with a Class B or F3 Felony, other than battery, \$10,000.00.
  - (4) A person charged with a F4 Felony, other than battery, \$7,500.00.
  - (5) A person charged with a Class C or F5 Felony, other than battery, \$5,000.00.
  - (6) A person charged with a Class D or F6 Felony, other than battery, \$2,000.00.

- (7) A person charged with a Class A Misdemeanor, other than battery, \$1,000.00.
  - (8) A person charged with a Class B or C Misdemeanor, \$1,000.00.
  - (9) A person arrested on an onsite warrantless arrest, on a charge of battery, at the Class A Misdemeanor level, or higher, or any charge involving methamphetamine at the F6 level or higher, shall be held in the DeKalb County Jail without bond until the person is brought before the Court for initial hearing.
- (D) Upon request, a Judge of the DeKalb Circuit or Superior Courts may set an initial bail that is different than the schedule shown above.

#### **LR 17-TR 79 (H)-7- Appointment of Special Judge in Civil Proceedings**

In the event a special judge selected under Trial Rule 79, Sections (D) (E) or (F) does not accept the case or a judge disqualifies and recuses under Trial Rule 79(C), then the clerk of the court shall appoint on a rotating basis one of the other presiding judges from DeKalb County, and if that judge is unable to serve because of disqualification pursuant to the Code of Judicial Conduct, then the clerk shall appoint on a rotating basis a person from a list of judicial officers eligible under Trial Rule 79 (J).

If the judge selected to serve is disqualified or is excused from service, then clerk of the court shall appoint the next judge on the list. If no judge on the list is eligible to serve as special judge or the particular circumstances in the case so warrant, the then presiding judge in the case shall certify the matter to the Indiana Supreme Court for the appointment of a special judge pursuant to TR79(H)(3).

#### **LR17-CR 2.2 -1- Criminal Case Reassignment and Special Judge Selection**

Pursuant to Ind. Criminal Rule 2.2(D) and Ind. Criminal Rule 13(C), in the event a change of judge is granted or a disqualification or recusal is entered, the case shall be reassigned as follows:

(1) Superior Court I: In the event a change of Judge is granted where it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in the DeKalb Superior Court I, the case shall be reassigned to the DeKalb Superior Court II.

(2) Superior Court II: In the event a change of Judge is granted where it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in the DeKalb Superior Court II, the case shall be reassigned to the DeKalb Superior Court I.

(3) Alternative: In the event a reassignment cannot be accomplished pursuant to the rules set forth above, then the case will be reassigned on a rotating basis from the following Judges: DeKalb Circuit Court Judge, and the Judges of those counties contiguous to DeKalb County, Indiana.

Pursuant to Ind. Criminal Rule 13(D), in the event no Judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of Special Judge. In the event the Judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding Judge may request the Indiana Supreme Court for such appointment.

#### **LR17-AR 1-1 – 2014 CASELOAD ALLOCATION PLAN FOR DEKALB COUNTY COURTS**

- (A) Cases to be filed exclusively in the DeKalb Circuit Court:  
JC\*, JD, JS, JP, JM, JT, RS
- (B) Cases to be filed exclusively in the DeKalb Superior Court I:  
FD, F6, CM, MC\*\*, IF, OV  
\*\* In the event DeKalb Superior Court I is unable to hear a search warrant when requested, the warrant may be requested of and issued by any of the Judges or Courts.  
\*\* Probation transfers cases shall be filed in the same manner as criminal cases, ie, Misdemeanor and FD and F6 probation cases shall be filed in Superior Court I. MR, FA, FB, FC, F1, F2, F3, F4 and F5 probation cases shall be filed on a rotating basis between Superior I and Superior II.
- (C) Cases to be filed exclusively in the DeKalb Superior Court II:  
SC
- (D) Cases to be filed on a rotating basis between DeKalb Circuit Court and DeKalb Superior Court II:  
DR, MH, AD, AH, ES, EU, EM, GU, TR, PO, MI

- (E) Cases to be filed on a rotating basis between DeKalb Superior Court I and DeKalb Superior Court II:  
MR, FA, FB & FC, PL, CC, MF, CT, OE, CB\*\*\*, F1, F2, F3, F4 and F5  
\*\*\* CB cases involving the appointment of Special, Pro Tem and Senior Judges shall be filed in the Court making the appointment.  
Resolutions Spread of Record may be filed in any Court.  
When additional criminal charges are filed against a Defendant with a pending MR, FA, FB, FC, F1, F2, F3, F4 or F5 case, the new charges shall be filed in the same Court as the pending case.  
\*JC-When the Judge of DeKalb Circuit Court has a conflict, the case shall be filed in DeKalb Superior Court II.  
When the Judge of DeKalb Superior Court II has a conflict in a criminal case, the case shall be filed in DeKalb Superior Court I.  
PC-The case to be filed in the court in which the underlying conviction was entered.  
After hours search warrants, emergency mental health commitments and verbal CHINS detention orders may be requested of and authorized by any of the judges.
- This caseload allocation plan shall be effective for one (1) year. The DeKalb County judges shall meet annually, and more often, if necessary, to review the caseload allocations.

#### **LR17-AR 12-2 – Facsimile Transmission Filings**

- (A) Except in the event of an emergency (i.e. illness or other unexpected event occurring within two (2) business days of the scheduled hearing) the Courts will not accept for filing documents received by fax. Further, a lawsuit or other original action and any other matter that requires the payment of fees to the Clerk/Court, may NOT be filed by fax.
- (B) In those circumstances where the transmission of pleadings by fax will be permitted, the party filing by fax shall create at the time of the transmission of the fax a machine generated log for the transmission of the fax. The original document and the transmission log shall be maintained by the sending party for the duration of the litigation. Other than the fax copy, no other copies should be submitted to the Clerk/Courts.

#### **LR17 AR 7-3 – Removal of Exhibits**

After a case is decided and no appeals are taken, or after all appeals are completed, the Court Reporter for a Court may give notice in writing to the party introducing the exhibit providing a time within which the exhibit shall be removed from the custody of the Court Reporter. If the party notified does not recover the exhibit within the time stated, the Court Reporter may dispose of the same in any reasonable manner deemed appropriate by the Court Reporter.

#### **LR17-AR 15-4 – Court Reporter Services**

Court Reporter services shall be governed by the following rules:

- (A) **Definitions** The following definitions shall apply under this rule:
- (1) **A COURT REPORTER** is a person who is specifically designated by a Court to perform the official court reporting services for the Court including preparing a transcript of the record.
  - (2) **EQUIPMENT** means all physical items owned by the Court or other governmental entity and used by a Court Reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
  - (3) **WORK SPACE** means that portion of the Court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
  - (4) **PAGE** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
  - (5) **RECORDING** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
  - (6) **REGULAR HOURS WORKED** means those hours which the Court is regularly scheduled to work during any given work week. Depending on the particular Court, these hours may vary from Court to Court within the county but remain the same for each work week.
  - (7) **GAP HOURS WORKED** means those hours worked in excess of the regular hours worked but hours not in excess of forty (40) hours per week.
  - (8) **OVERTIME HOURS WORKED** means those hours worked in excess of forty (40) hours per work week.
  - (9) **WORKWEEK** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
  - (10) **COURT** means the particular Court for which the Court Reporter performs services. Court may also mean all of the Courts in DeKalb County.
  - (11) **COUNTY INDIGENT TRANSCRIPT** means a transcript that is paid for from County funds and is for the use on behalf of a litigant who has been declared indigent by a Court.
  - (12) **STATE INDIGENT TRANSCRIPT** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

(13) **PRIVATE TRANSCRIPT** means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

**(B) Salaries and Per Page Fees**

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular working hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.
- (2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.50; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
- (3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.50.
- (4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.50.
- (5) If a Court Reporter is requested to prepare an expedited transcript, the maximum fee per page shall be \$5.50 where the transcript must be prepared within five (5) working days.
- (6) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court, Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

**(C) Private Practice**

A Court Reporter shall not be allowed to use court equipment, work space, or supplies nor regular employment hours, gap hours, or overtime hours to engage in the private practice of recording a deposition and/or preparing a deposition transcript.

**LR17-AR 00-5 - Judges Assisting Other Judges**

Pursuant to the authority conferred upon Judges to make Local Rules and pursuant to Indiana Code 33-29-1-10 and for the purpose of each of the Judges being able to assist the other:

- (A) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of Superior Court I, sit as a Judge of DeKalb Superior Court I in any matter as if the Circuit Court Judge were an elected Judge of DeKalb Superior Court I.



- (B) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of the DeKalb Superior Court II, sit as a Judge of DeKalb Superior Court II in any matter as if the Circuit Court Judge were an elected Judge of DeKalb Superior Court II.
- (C) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of the DeKalb Circuit Court, sit as the Judge of the DeKalb Circuit Court in any matter as if the Judge of DeKalb Superior I were the elected Judge of the DeKalb Circuit Court.
- (D) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of the DeKalb Circuit Court, sit as the Judge of the DeKalb Circuit Court in any matter as if the Judge of DeKalb Superior Court II were the elected Judge of the DeKalb Circuit Court.
- (E) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of the DeKalb Superior Court II, sit as Judge of the DeKalb Superior Court II in any matter as if the Judge of DeKalb Superior I were the elected Judge of the DeKalb Superior Court II.
- (F) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of the DeKalb Superior Court I, sit as Judge of the DeKalb Superior Court I in any matter as if the Judge of DeKalb Superior Court II were the elected Judge of the DeKalb Superior Court I.

#### **LR17-AR 00-6 - Transfer of Cases**

Notwithstanding the caseload allocation plan adopted by the Judges in any given calendar year and pursuant to Indiana Code 33-29-1-9:

- (A) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of DeKalb Superior Court I, transfer any action or proceeding from the DeKalb Circuit Court to DeKalb Superior Court I.
- (B) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of DeKalb Superior Court II, transfer any action or proceeding from the DeKalb Circuit Court to DeKalb Superior Court II.
- (C) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of DeKalb Superior Court II, transfer any action or proceeding from the DeKalb Superior Court I to DeKalb Superior Court II.
- (D) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of DeKalb Superior Court I, transfer any action or proceeding from the DeKalb Superior Court II to DeKalb Superior Court I.
- (E) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of DeKalb Circuit Court, transfer any action or proceeding from the DeKalb Superior Court I to DeKalb Circuit Court.
- (F) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of DeKalb Circuit Court, transfer any action or proceeding from the DeKalb Superior Court II to DeKalb Circuit Court.

## **LR17-FL 00-1 - Children and Custody Proceedings**

In all Dissolution of Marriage cases involving unemancipated children, in which an Order of child custody or child parenting time is sought, or in which an Order of modification is sought, both parents shall complete the Court approved program entitled UpToParents.org and/or such other program as is specifically approved by the Court.

In all paternity cases in which an Order for child custody or child parenting time is sought, or in which a modification is sought, both parents shall complete the Court approved program entitled ProudToParent.org and/or such other program as is specifically approved by the Court.

The attorney representing a party to such a proceeding shall inform the client of this requirement.

A party required to complete said internet program shall do so within sixty (60) days of the date the proceeding is initiated.

A party required to complete the Family Enrichment Series shall enroll in the program within thirty (30) days of the initiation of the proceeding and complete the series within one hundred and eighty (180) days of said initiation.

Proof of completion of a required program must be filed with the appropriate Court within thirty (30) days of completion.

Failure by a party to complete this requirement may constitute cause for denial of the relief requested. A parent shall not delay the proceeding by failing to complete these requirements.

## **LR17-FL 00-2 – Hallway, Summary/Expedited Hearings**

- (A) Due to the demand on Court calendar time, requests for Orders Pendente Lite or for enforcement or modification of existing Orders and Decrees may be first scheduled for **a hallway hearing** or an expedited or summary hearing. Expedited/Summary hearings will allow parties access to the Court relatively quickly and with less expense. While summary/expedited hearings are not appropriate for all cases, it is believed such hearings will reduce the time some cases have to wait to be heard.
- (B) If a hallway hearing does not result in all issues being resolved, the Court may set such unresolved issues for an expedited/summary hearing.
- (C) Each party shall bring to the hallway or summary/expedited hearing evidence sufficient to establish their average weekly gross income and any deduction therefrom including any medical/health insurance benefits attributable to the children of the parties.

- (D) At a summary/expedited hearing, the evidence shall be presented in summary fashion by the attorneys, or the parties if not represented by counsel, who shall summarize the evidence in narrative statement. The Court may then question the parties or attorneys and may require the presentation of brief testimony. Documentary evidence may also be received by the Court. Formal rules of evidence or procedure shall not apply, except that the Court shall endeavor to insure the traditional concepts of trustworthiness of evidence and fundamental fairness are observed.
- (E) The Court may, on its own motion, either before or after the expedited hearing, decline to determine any issues on the evidence presented at such hearing and shall thereafter schedule such issues for evidentiary hearing.

#### **LR17-FL 00-3 – Dissolution of Marriage Pre-Trial Disclosure**

- (A) In every dissolution of marriage proceeding where a contested final hearing will be heard, each party shall separately prepare and file a pre-trial submittal of information including the information described in paragraph Rule 10(E) below, all as of the date the petition for dissolution of marriage was filed in the Court.
- (B) Each party shall file their respective dissolution of marriage pre-trial information with the Court and also exchange a copy of it with the other party (or the other party's attorney if represented by an attorney) at least ten (10) days prior to the scheduled contested court hearing.
- (C) That failure of a party to file with the Court and to exchange the dissolution of marriage Pre-Trial Disclosure Information form at least ten (10) days prior to the Court hearing may result in the Court continuing the hearing or imposing any appropriate sanction including exclusion of witnesses or other evidence and including dismissal.
- (D) The parties and their attorneys shall meet prior to the Court hearing date and in good faith attempt to agree upon resolution of as many of the issues as reasonably possible so that these matters may be stipulated to the Court and also to attempt to agree upon the admissibility of documents.

- (E) Said Pre-Trial Disclosure Information form shall contain the following information:
- (1) **CASE CAPTION:** Begin the document with the case caption including cause number.
  - (2) **TITLE:** Title the document “Dissolution Of Marriage Pre-Trial Information”.
  - (3) **SUBMITTING PARTY:** Full legal name, Social Security Number, and date of birth.
  - (4) **MARRIAGE HISTORY:** Whether this is your first marriage or, if not, the number of marriages for you.
  - (5) **MINOR CHILDREN:**
    - (i) Full legal names, dates of birth, and Social Security Numbers.
    - (ii) Description of special health problems, if any.
    - (iii) Proposal for custody.
    - (iv) Proposal for parenting time schedule.
    - (v) Proposal for amount of child support. (Include copy of completed child support worksheet).
  - (6) **HEALTH INSURANCE FOR CHILDREN:**
    - (i) The name, address and telephone number of the company providing the medical/health coverage for the children.
    - (ii) The amount paid by the parent and/or deducted from the parent’s wages for said medical/health insurance coverage.
    - (iii) The frequency of the payment/deduction for said medical/health insurance coverage for the children.
  - (7) **EMPLOYMENT:**
    - (i) Name and address of employer.
    - (ii) Title of employment position.
    - (iii) Hours of employment.
    - (iv) Gross rate of pay.
    - (v) Description and amounts of deductions from gross pay.
    - (vi) Net rate of pay.
    - (vii) Other Income:
      - (a) Description of source.
      - (b) Amount and rate.
  - (8) **MAINTENANCE:** Proposal for spousal maintenance needs, if any.
  - (9) **RETIREMENT PLAN:** State whether the party participates in a pension or retirement plan. If so:
    - (i) State the date participation began.
    - (ii) State whether there is a vested interest.
    - (iii) Present value of plan.
    - (iv) Portion of the value accumulated during the marriage.

- (10) **OBLIGATIONS:** For each financial obligation provide:
- (i) Name of creditor.
  - (ii) Purpose of obligation.
  - (iii) Original amount.
  - (iv) Current unpaid balance.
  - (v) Amount and rate of payment.
  - (vi) Proposed payor after the dissolution of the marriage.
  - (vii) Whether or not the debt is secured and if so, a detailed description of the collateral.
- (11) **ASSETS:** For any ownership interest in assets, real or person, provide:
- (i) Description (include complete legal description for real estate).
  - (ii) Date acquired.
  - (iii) Original cost, if known.
  - (iv) Current unpaid balance.
  - (v) Whether there is a lien (if so, name and address of lien holder).
  - (vi) Estimate of present value.
  - (vii) Proposed distribution of personal property items.
  - (viii) Proposed distribution of real estate.
- (12) **WITNESSES:** State the names and address of any and all persons expected to be called by you as witnesses in Court including expert witnesses such as appraisers, psychologists or psychiatrists, counselors, social workers, therapists, police officers, ministers, priests or rabbis, documentary record custodians, etc.
- (13) **SURNAME:** Whether the wife wishes for the Court to restore a former last name to her (if so, state the name).
- (14) **OTHER:** Any other explanation of property, income, information, or special circumstances that will clarify the issues or the evidence.
- (15) **VERIFICATION:** The document shall conclude with the party reading and signing the following verification:  
“I verify subject to the penalty for perjury that the information provided in the foregoing Dissolution of Marriage Pre-Trial Information” is true, accurate and complete to the best of my knowledge and belief.”
- (16) **SIGNATURES:**
- (i) The party shall sign.
  - (ii) The attorney shall sign (if party is represented by counsel).

**LR17-JR4-1- Jury Administrators and Jury Pool**

- A. The Clerk of the DeKalb Courts shall serve as the jury administrator.
- B. A two tier notice and summons, consistent with Jury Rule 4(b), shall be used by the jury administrator.